

# **EXHIBIT D**

1                   \*\*CONFIDENTIAL \*\* CONFIDENTIAL \*\*

2           UNITED STATES DISTRICT COURT

3           SOUTHERN DISTRICT OF NEW JERSEY

4           CIVIL ACTION NO.: 2:11-cv-07318-WHW-SCM

5           -----x

6           JUICE ENTERTAINMENT, LLC, THOMAS DORFMAN,  
7           and CHRIS BARRETT,

8                                   Plaintiffs,

9                   -against-

10           LIVE NATION ENTERTAINMENT, INC.,

11                                   Defendant.

12           -----x

13                                   December 18, 2013

14                                   10:06 a.m.

15                   DEPOSITION of JOHN D'ESPOSITO,  
16           Nonparty Witness, taken by Plaintiffs, held at  
17           the offices of Greenberg Traurig, 200 Park  
18           Avenue, Florham Park, New Jersey, before Eileen  
19           Mulvenna, CSR/RMR/CRR, Certified Shorthand  
20           Reporter, Registered Merit Reporter, Certified  
21           Realtime Reporter and Notary Public of the State  
22           of New York.

<p style="text-align: right;">Page 138</p> <p>1 D'Esposito - Confidential</p> <p>2 A. Al B.</p> <p>3 Q. I don't know who that is.</p> <p>4 A. His name is Al B. He's a promoter.</p> <p>5 Q. Who did he work for?</p> <p>6 A. Himself. Al B. works for himself.</p> <p>7 Q. When you say "Tiesto is what Al</p> <p>8 recognized," what do you mean? Recognized from</p> <p>9 where?</p> <p>10 A. I don't know. Al -- I don't know</p> <p>11 these names. Al is the only name they</p> <p>12 recognize -- Al tells me -- Al says a name and</p> <p>13 that's a good artist you should get. Al B. is</p> <p>14 our street promoter, hands out fliers.</p> <p>15 I have no idea about anything to do</p> <p>16 with electronic dancers at this time in my life.</p> <p>17 I have no idea, zero. Braille.</p> <p>18 Q. And when Jason Miller writes back</p> <p>19 to you a minute later, same day, and says,</p> <p>20 "I would imagine they are holding Tiesto with</p> <p>21 Al," do you think he's referring to the same Al</p> <p>22 that you thought you were referring to?</p> <p>23 A. No.</p> <p>24 MR. MARX: Object to the form of</p> <p>25 the question.</p>	<p style="text-align: right;">Page 140</p> <p>1 D'Esposito - Confidential</p> <p>2 A. Al B., yeah, I always have a</p> <p>3 discussion. I don't know electronic dance</p> <p>4 music. So he used sources to figure it out, if</p> <p>5 it's worth taking a risk.</p> <p>6 Q. When you said --</p> <p>7 A. Al Dorso wouldn't know electron</p> <p>8 music either. We were both in the same pond on</p> <p>9 this one.</p> <p>10 Q. But when you say "they are</p> <p>11 holding," were you referring to Al -- were you</p> <p>12 referring to --</p> <p>13 A. William Morris or whoever was</p> <p>14 holding.</p> <p>15 Q. For what venue, for what show?</p> <p>16 A. I don't know.</p> <p>17 Q. Well, are you saying you don't know</p> <p>18 now or you didn't know --</p> <p>19 A. It could be Asbury Park. I don't</p> <p>20 know. I don't know what's going on with this</p> <p>21 situation.</p> <p>22 Q. You wrote the e-mail. What I'm</p> <p>23 trying to ask you is, what did you mean when you</p> <p>24 sent the e-mail? Do you recall today what you</p> <p>25 meant --</p>
<p style="text-align: right;">Page 139</p> <p>1 D'Esposito - Confidential</p> <p>2 THE WITNESS: I think he has a</p> <p>3 mistake on that.</p> <p>4 BY MR. SIEGEL:</p> <p>5 Q. Well, I'll ask him about it, but --</p> <p>6 my question is -- this e-mail was sent to you.</p> <p>7 Did you understand that he was talking about the</p> <p>8 same Al that you were talking about?</p> <p>9 A. Probably not. There was a lot of</p> <p>10 people in this situation. I don't know Al B.</p> <p>11 from Tommy D. from Mel Ski, who is another</p> <p>12 promoter. I'm surprised his name hasn't come up</p> <p>13 yet.</p> <p>14 Q. In the e-mail that you wrote, you</p> <p>15 said "Tiesto was what Al recognized."</p> <p>16 That -- to me when I read that, it</p> <p>17 seems like he was shown a list and he recognized</p> <p>18 the name off the list.</p> <p>19 A. Yeah.</p> <p>20 Q. Is this something -- is this a</p> <p>21 discussion or an exchange that you had with Al?</p> <p>22 I mean, did you show him a list?</p> <p>23 A. Al who?</p> <p>24 Q. Al B., the one you're referring to</p> <p>25 in your e-mail.</p>	<p style="text-align: right;">Page 141</p> <p>1 D'Esposito - Confidential</p> <p>2 A. No.</p> <p>3 Q. -- when you sent that e-mail?</p> <p>4 A. No, that was so long ago. Oh, my</p> <p>5 God.</p> <p>6 (D'Esposito Exhibit 11, Bates Nos.</p> <p>7 LN0001697 through 98, E-mail Chain, marked</p> <p>8 for identification.)</p> <p>9 BY MR. SIEGEL:</p> <p>10 Q. I'm showing you what's been marked</p> <p>11 as Exhibit No. 11. This is a series of e-mails.</p> <p>12 Again it contains the long e-mail from</p> <p>13 Mr. Miller to Joel Zimmerman and Samantha Kirby</p> <p>14 from February 15, 2011, that we looked at a</p> <p>15 moment ago.</p> <p>16 He apparently forwards it to you,</p> <p>17 says, "FYI." Then you respond, "Good e-mail. I</p> <p>18 need a shortened and money unpaid, trouble</p> <p>19 collecting e-mail to send to Al to make this</p> <p>20 swung back."</p> <p>21 A. Uh-huh.</p> <p>22 Q. What did you mean when you said</p> <p>23 that?</p> <p>24 A. I needed to get my production in to</p> <p>25 host Big Time Rush. So I needed to swing back</p>

<p style="text-align: right;">Page 142</p> <p>1 D'Esposito - Confidential</p> <p>2 that I had the right staging from Mountain</p> <p>3 staging. And they had unpaid bills from these</p> <p>4 other shows, I guess, that would hurt my ability</p> <p>5 to bring in the production that I need for Big</p> <p>6 Time Rush at the State Fair, potentially, or at</p> <p>7 the IZOD or at Six Flags, where it ended up</p> <p>8 playing.</p> <p>9 These guys were in the middle of</p> <p>10 our production, and they had no competency or</p> <p>11 ability to produce a show. And I was being</p> <p>12 asked to put my band in their hands, and that</p> <p>13 wasn't happening.</p> <p>14 So I wanted to swing it back so I</p> <p>15 could produce Big Time Rush the way the band</p> <p>16 expected and the way the agent and the company,</p> <p>17 Nickelodeon, wanted that show produced.</p> <p>18 Q. When you say "these guys" were in</p> <p>19 the middle of your production, who are you</p> <p>20 referring to?</p> <p>21 A. The guys that Al introduced us to.</p> <p>22 This one dude, John, who had no idea what a</p> <p>23 SAM-550 stage was. He didn't even know what it</p> <p>24 was.</p> <p>25 Q. What is it?</p>	<p style="text-align: right;">Page 144</p> <p>1 D'Esposito - Confidential</p> <p>2</p> <p>3 Q. For Bamboozle or Big Time Rush?</p> <p>4 A. Big Time Rush.</p> <p>5 Q. And that would have been before the</p> <p>6 State Fair?</p> <p>7 A. It would have been during the State</p> <p>8 Fair, at the time that they were -- that your</p> <p>9 clients had this arrangement. I don't even know</p> <p>10 what it was for. I wanted to use the site for</p> <p>11 Big Time Rush. We were either going to play</p> <p>12 State Fair or we were going to play Six Flags.</p> <p>13 So we chose Six Flags because these</p> <p>14 guys had no ability to produce a show. They had</p> <p>15 no technical information. They had no</p> <p>16 experience. They had no real support system in</p> <p>17 place. So it was a disaster. Al set us up for</p> <p>18 a disaster, but he wanted the show.</p> <p>19 Q. This is in February of 2011.</p> <p>20 A. Uh-huh.</p> <p>21 Q. And we're talking about concerts</p> <p>22 that would have taken place at the State Fair,</p> <p>23 which is in June and July; correct?</p> <p>24 A. Yes.</p> <p>25 Q. So how did you know in February of</p>
<p style="text-align: right;">Page 143</p> <p>1 D'Esposito - Confidential</p> <p>2 A. He's the only one I talked to from</p> <p>3 that group. I don't even think his name was</p> <p>4 mentioned earlier.</p> <p>5 Q. So you're asking for an e-mail -- a</p> <p>6 shortened version of the e-mail that's set out</p> <p>7 here?</p> <p>8 A. Yes.</p> <p>9 Q. Who did you want to send it to?</p> <p>10 A. What do you mean?</p> <p>11 Q. You say "I need" --</p> <p>12 A. I wanted to send it to Al so I</p> <p>13 could show I needed to use my production for my</p> <p>14 show.</p> <p>15 Q. Al Dorso?</p> <p>16 A. Yes. I wasn't putting my band on</p> <p>17 their production. They didn't even have</p> <p>18 production. They couldn't even tell you the</p> <p>19 name of the lighting company, the sound company.</p> <p>20 Q. What event are you talking about?</p> <p>21 Are you saying that there was an event that was</p> <p>22 under discussion that somebody wanted you --</p> <p>23 A. They had contact at the State Fair,</p> <p>24 your clients did. I was told by Al Dorso to go</p> <p>25 contact them to use their resources for my show.</p>	<p style="text-align: right;">Page 145</p> <p>1 D'Esposito - Confidential</p> <p>2 2011 that it was a disaster and couldn't have</p> <p>3 been done?</p> <p>4 A. Because I asked them what kind of</p> <p>5 production they were using, what did they plan</p> <p>6 on doing. They're the producers. They own the</p> <p>7 venue now -- or they own the production. I had</p> <p>8 to use their resources. I needed to know. It's</p> <p>9 what a renter would do. I want --</p> <p>10 Q. You needed to know that in February</p> <p>11 why?</p> <p>12 A. Because you plan a tour months and</p> <p>13 months and months in advance.</p> <p>14 Q. Even though earlier you testified</p> <p>15 you could make it happen in six seconds.</p> <p>16 A. You can make it happen in six</p> <p>17 seconds.</p> <p>18 Q. Right.</p> <p>19 A. If I wanted Justin Bieber to jump</p> <p>20 on stage with Selena Gomez and he was standing</p> <p>21 next to me, I could ask him to go on stage in</p> <p>22 six seconds and he would.</p> <p>23 Q. So Al Dorso was asking you --</p> <p>24 A. No, he was telling us.</p> <p>25 Q. He was telling you that your Big</p>

<p style="text-align: right;">Page 146</p> <p>1 D'Esposito - Confidential</p> <p>2 Time Rush show that you wanted to produce -- or</p> <p>3 promote had to be done in conjunction with my</p> <p>4 clients?</p> <p>5 A. Yes.</p> <p>6 Q. And do you know what day -- my</p> <p>7 clients were primarily planning an electronic</p> <p>8 dance event for the first weekend of the State</p> <p>9 Fair in 2011. When would Big Time Rush --</p> <p>10 A. They had a music exclusive on the</p> <p>11 festival -- on the fair to all music.</p> <p>12 Q. So if you -- but did you -- would</p> <p>13 this have been the same time that you produced</p> <p>14 Big Time Rush at that venue the prior year?</p> <p>15 A. From what?</p> <p>16 Q. Well, you put on Big Time Rush</p> <p>17 shows more than one year; correct?</p> <p>18 A. Yes.</p> <p>19 Q. And was it always in June or July</p> <p>20 of the summer?</p> <p>21 A. Usually.</p> <p>22 Q. And before --</p> <p>23 A. Or August.</p> <p>24 Q. Before 2011, for how many years had</p> <p>25 you done it? Do you know?</p>	<p style="text-align: right;">Page 148</p> <p>1 D'Esposito - Confidential</p> <p>2 to explain to the agent. Did he stiff the</p> <p>3 artist?"</p> <p>4 When you say you need to explain to</p> <p>5 the agent, what were you referring to there?</p> <p>6 A. Jonathan Peters, through a mutual</p> <p>7 friend, wanted to play at Convention Hall again.</p> <p>8 I didn't want to do the show.</p> <p>9 Q. So you're referring to Jonathan</p> <p>10 Peters' agent there?</p> <p>11 A. Yes.</p> <p>12 Q. What I'm trying to understand is,</p> <p>13 why Tommy D. would have been relevant to this</p> <p>14 discussion. You say -- I think you testified</p> <p>15 earlier that you had the ability to book talent</p> <p>16 for the Asbury Park venue, the Convention Hall.</p> <p>17 If you wanted Jonathan Peters to</p> <p>18 appear at the Convention Hall, couldn't you have</p> <p>19 simply done that without Tommy D.'s involvement?</p> <p>20 A. I'm not an EDM promoter.</p> <p>21 Q. You're not an EDM promoter?</p> <p>22 A. No.</p> <p>23 Q. So your understanding was that if</p> <p>24 Peters was going to appear at that venue again,</p> <p>25 somehow Tommy D. would need to be involved?</p>
<p style="text-align: right;">Page 147</p> <p>1 D'Esposito - Confidential</p> <p>2 A. I don't remember.</p> <p>3 Q. But it's something that you had</p> <p>4 done repeatedly. And so the summer of 2011 was</p> <p>5 coming up and Mr. Dorso asked you to --</p> <p>6 A. Didn't ask.</p> <p>7 Q. -- he told you to cooperate with --</p> <p>8 A. Yes. That's why you're completely</p> <p>9 off with what you're going for here. You're</p> <p>10 fishing for Big Time Rush. You have it. I</p> <p>11 don't know anything about EDM Festival. I don't</p> <p>12 care about it. And I don't know anything about</p> <p>13 it. I don't know any of this. So this is a</p> <p>14 waste of time. I've said that many times.</p> <p>15 (D'Esposito Exhibit 12, Bates Nos.</p> <p>16 LN0001012 through 13, E-Mail Chain, marked</p> <p>17 for identification.)</p> <p>18 BY MR. SIEGEL:</p> <p>19 Q. This is Exhibit No. 12. It's a</p> <p>20 series of e-mails between you and Chris Femiano</p> <p>21 from February 23, 2011. And you're talking</p> <p>22 about -- it appears you're talking about the</p> <p>23 Jonathan Peters show in Asbury Park that you</p> <p>24 referred to earlier. You tell Mr. Femiano --</p> <p>25 you ask him, "What did Tommy do again? I need</p>	<p style="text-align: right;">Page 149</p> <p>1 D'Esposito - Confidential</p> <p>2 A. An EDM promoter would need to be</p> <p>3 involved. It's not my specialty.</p> <p>4 Q. So why did you need to explain to</p> <p>5 the agent what you think happened with Tommy on</p> <p>6 the prior show?</p> <p>7 A. Because there's concerns about the</p> <p>8 venue. That's why Chris says in there he didn't</p> <p>9 play Convention Hall. There was a lot of</p> <p>10 confusion. Jonathan thought he was playing</p> <p>11 Convention Hall. He went down there and he was</p> <p>12 playing the beach bar. He was lied to. He</p> <p>13 wasn't paid. It was a big disaster.</p> <p>14 He saw a great crowd there for him,</p> <p>15 but he didn't want to play because he didn't</p> <p>16 have the production. So he left and wanted his</p> <p>17 money. Got in a fight. They left.</p> <p>18 Year later, I guess, or whatever,</p> <p>19 he comes back, Can we do that again?</p> <p>20 I don't want any part of it. I'm</p> <p>21 asking the venue, Is Tommy D. still there?</p> <p>22 I don't know what's going on. It's</p> <p>23 not my expertise. But at this point, John</p> <p>24 DiMatteo would be a better buyer than me.</p> <p>25 MR. SIEGEL: I am pressing forward</p>

<p>Page 194</p> <p>1 2 ERRATA SHEET 3 VERITEXT/NEW YORK REPORTING, INC. 4 1-800-727-6396 5 NAME OF CASE: JUICE V. LIVE NATION 6 DATE OF DEPOSITION: DECEMBER 18, 2013 7 NAME OF DEPONENT: JOHN D'ESPOSITO 8 9 PAGE LINE(S) CHANGE REASON 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 20 21 _____ 22 JOHN D'ESPOSITO 23 Subscribed and sworn to before me 24 this ____ day of ____, 2014. 25 _____ 26 (NOTARY PUBLIC) MY COMMISSION EXPIRES:</p>	<p>Page 195</p> <p>1 2 STATE OF NEW YORK ) 3 ss: 4 COUNTY OF NEW YORK ) 5 6 I, Eileen Mulvenna, Notary Public 7 within and for the State of New York, do hereby 8 certify: 9 10 That I reported the proceedings in 11 the within entitled matter, and that the within 12 transcript is a true record of said proceedings. 13 14 15 I further certify that I am not 16 related to any of the parties to the action by 17 blood or marriage, and that I am in no way 18 interested in the outcome of this matter. 19 20 IN WITNESS WHEREOF, I have hereunto 21 set my hand this 3rd day of January, 2014. 22 23 _____ 24 Eileen Mulvenna, CSR/RMR 25</p>
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